

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DERRICK L. JOHNSON,	:	
Petitioner,	:	
v.	:	Case No. 3:15-cv-90
CHARLES BRADLEY, Warden,	:	JUDGE WALTER H. RICE
Pickaway Correctional	:	
Institution,	:	
Respondent.	:	

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #56);
OVERRULING PETITIONER'S OBJECTIONS THERETO (DOC. #59);
OVERRULING PETITIONER'S APPLICATION FOR A CERTIFICATE OF
APPEALABILITY (DOC. #55)

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz in his Report and Recommendations on Application for Certificate of Appealability, Doc. #56, as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filing in its entirety.

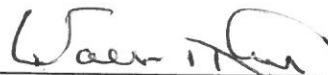
Petitioner's Objections to the Report and Recommendations, Doc. #59, are OVERRULED. To the extent that he objects to Magistrate Judge Merz's failure to produce any documentary evidence that Petitioner actually received the September 8, 2017, Report and Recommendations, Doc. #35, this argument is rejected for the reasons set forth in this Court's December 18, 2017, Decision and Entry, Doc.

#52. To the extent that Petitioner objects to having to raise any substantive objections to the judgment in the context of a motion brought under Federal Rule of Civil Procedure 59(e), that argument is rejected for the reasons set forth by Magistrate Judge Merz in the February 13, 2018, Report and Recommendations, Doc. #56, PageID#1023.

The bottom line is that any appeal of this Court's December 18, 2017, Decision and Entry, Doc. #52, would be futile because the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus was extremely untimely, and there is no basis for equitable tolling. Petitioner has not argued otherwise.

Accordingly, Petitioner's Application for Certificate of Appealability, Doc. #55, is OVERRULED. The above-captioned case shall remain terminated on the Court's docket.

Date: March 8, 2018



WALTER H. RICE
UNITED STATES DISTRICT JUDGE